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UNITED STATES
DISTRICT COURT

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE PET FOODS PRODUCTS)
LIABILITY LITIGATION) MDL Docket No. 1850
)
)

**PLAINTIFFS JAYME PITTSONBERGER, DAVID CARTER AND JIM
BULLOCK'S MOTION FOR TRANSFER AND
COORDINATION PURSUANT TO 28 U.S.C. §1407**

Plaintiffs Jayme Pittsonberger, David Carter and Jim Bullock respectfully submit this joint motion before the Judicial Panel on Multidistrict Litigation for an Order, under 28 U.S.C. §1407, that (i) transfers thirteen putative class actions, currently pending in the Western District of Washington, Western District of Arkansas, Southern District of Florida, Northern District of Illinois, Eastern District of Tennessee, District of Rhode Island, District of Connecticut, and the Central District of California,¹ as well as any

¹ These cases include: 1) *Tom Whaley v. Menu Foods, et al.*, Docket No. 07-cv-00411 (W.D. Wash.); 2) *Stacey Heller, et al. v. Menu Foods, et al.*, Docket No. 07-cv-00453 (W.D. Wash.); 3) *Audrey Cornelius, et al. v. Menu Foods, et al.*, Docket No. 07-cv-00454 (W.D. Wash.); 4) *Suzanne E. Johnson, et al. v. Menu Foods, et al.*, Docket No. 07-cv-00455 (W.D. Wash.); 5) *Michele Suggett, et al. v. Menu Foods, et al.*, Docket No.

cases that may subsequently be filed asserting similar or related claims, to the United States District Court for the District of New Jersey; and (ii) coordinates these actions with the fifteen similar actions that are currently pending in the District of New Jersey.² In support of this Motion for Transfer and Coordination, Plaintiffs state as follows:

1. The class actions for which transfer and coordination are proposed arise out of the same conduct and allege virtually identical claims. Each action is brought on behalf of a class of purchasers of dog or cat food manufactured by Menu Foods and sold under various labels and alleges that Menu Foods produced contaminated or tainted pet food that sickened their dogs or cats and caused the death of many of them.

07-cv-00457 (W.D. Wash.); 6) *Shirley Sexton v. Menu Foods Income Fund, et al.*, Docket No. 07-cv-01958 (C.D. Cal.); 7) *Lauri A. Osborne v. Menu Foods Inc., et al.*, Docket No. 07-cv-00469 (D. Conn.); 8) *Lizajean Holt v. Menu Foods Inc., et al.*, Docket No. 07-cv-00094 (E.D. Tenn.); 9) *Carol Brown v. Menu Foods Inc., et al.*, Docket No. 07-cv-00115 (D.R.I.); 10) *Dawn Majerczyk v. Menu Foods Inc., et al.*, Docket No. 07-cv-01543 (N.D. Ill.); 11) *Christina Troiano v. Menu Foods Inc., et al.*, Docket No. 07-cv-60428 (S.D. Fla.); 12) *Charles Ray Sims v. Menu Foods Income Fund, et al.*, Docket No. 07-cv-05053 (W.D. AK); and 13) *Richard Scott Widen v. Menu Foods, et al.*, Docket No. 07-cv-05055 (W.D. AK) (hereafter the "13 Actions").

² These actions include: 1) *Jared Workman, et al. v. Menu Foods Limited, et al.*, Docket No. 07-cv-01338 (D.N.J.) (Hillman); 2) *Suzanne Thompson, et al. v. Menu Foods Income Fund, et al.*, Docket No. 07-cv-01360 (D.N.J.) (Sheridan); 3) *Larry Wilson v. Menu Foods Income Fund, et al.*, Docket No. 07-cv-01456 (D.N.J.) (Hillman); 4) *Paul Richard, et al. v. Menu Foods Income Fund*, Docket No. 07-cv-01457 (D.N.J.) (Hillman); 5) *Linda Tinker v. Menu Foods, Inc.*, Docket No. 07-cv-01468 (D.N.J.) (Hillman); 6) *Janice Bonier et al. v. Menu Foods, Inc.*, Docket No. 07-cv-01477 (D.N.J.) (Hillman); 7) *Julie Hidalgo v. Menu Foods, Inc.*, Docket No. 07-cv-01488 (D.N.J.) (Hillman); 8) *Alexander Nunez v. Menu Foods Limited, et al.*, Docket No. 07-cv-01490 (D.N.J.) (Hillman); 9) *Mark Golding v. Menu Foods Limited, et al.*, Docket No. 07-cv-01521 (D.N.J.) (Hillman); 10) *Troy Gagliardi v. Menu Foods Inc., et al.*, Docket No. 07-cv-01522 (D.N.J.) (Hillman); 11) *Kami Turturro v. Menu Foods Inc., et al.*, Docket No. 07-cv-01523 (D.N.J.) (Hillman); 12) *Peggy Schneider v. Menu Foods Limited, et al.*, Docket No. 07-cv-01533 (D.N.J.) (Hillman); 13) *Jayme Pittsonberger v. Menu Foods Inc., et al.*, Docket No. 07-cv-01561 (D.N.J.) (Hillman); 14) *David Carter v. Menu Foods Inc., et al.*, Docket No. 07-cv-01562 (D.N.J.) (Hillman); 15) *Jim Bullock v. Menu Foods Inc., et al.*, Docket No. 07-cv-01579 (D.N.J.) (Hillman).

2. This motion is filed on behalf of plaintiffs in the following actions: 1)

Jayme Pittsonberger v. Menu Foods Inc., et al, Docket No. 07-cv-01561 (D.N.J.); 2)

David Carter v. Menu Foods Inc., et al, Docket No. 07-cv-01562 (D.N.J.); 3) *Jim Bullock v. Menu Foods Inc., et al*, Docket No. 07-cv-01579 (D.N.J.) all of which are pending in the United States District Court for the District of New Jersey.

3. The 13 Actions proposed for transfer herein are the only actions on file outside the District of New Jersey of which Plaintiffs are aware.

4. Plaintiffs propose that pretrial proceedings in the 13 Actions be transferred and coordinated in the District of New Jersey where 15 of the 28 related actions are currently pending.

5. The centralization of these actions in a single judicial district for coordinated pretrial proceedings will promote the just and efficient conduct of these actions, will serve the convenience of all parties and witnesses and will promote the interests of justice because all actions involve common factual and legal issues, including:

- a. whether the Defendants' dog and cat food was materially defective and unfit for use as dog or cat food;
- b. whether Defendants breached any warranties, express or implied, relating to the sale of the dog and cat food;
- c. whether Defendants' dog and cat food caused Plaintiffs' and other Class members' pets to become ill and die;
- d. whether Plaintiffs and other Class members have been damaged, and, if so, what is the proper measure thereof;

e. what is the appropriate form of injunctive, declaratory and other relief.

6. Coordination of the actions before a single court will conserve judicial resources, reduce litigation costs, prevent potentially inconsistent pretrial rulings, eliminate duplicative discovery and permit the cases to proceed to trial more efficiently.

7. All actions are in the very early stages of litigation; no responsive pleadings have been filed nor has any discovery been conducted.

8. The proposed transfer and coordination in the District of New Jersey will be for the convenience of parties and witnesses, and will promote the just and efficient conduct of these actions because it is expected that plaintiffs' counsel in all actions will take discovery of the same witnesses and documents.

9. Transfer to the District of New Jersey is appropriate because 15 of the 28 related actions were filed there; the District of New Jersey has the resources and judicial expertise to promptly and efficiently conduct this case; the District of New Jersey is more easily accessible and conveniently located than any other district proposed and, most importantly, the manufacturing facilities where much of the contaminated pet food was processed and manufactured is located in the District of New Jersey.

10. Plaintiffs' motion is based on the accompanying memorandum of law, the filed pleadings and papers, and other materials that may be presented to the Panel before or at the time of any hearing in this matter.

WHEREFORE, Plaintiff respectfully request that the Panel order that the 13 Actions, as well as any cases that subsequently may be filed asserting related or similar claims, be transferred to the District of New Jersey for coordinated pretrial proceedings.

Dated: April 5, 2007

Respectfully submitted,
KAPLAN FOX & KILSHEIMER LLP



ROBERT KAPLAN
LINDA NUSSBAUM
CHRISTINE M. FOX
805 Third Avenue, 22nd Floor.
New York, NY 10022
Tel: (212) 687-1980
Fax: (212) 687-7714

KAPLAN FOX & KILSHEIMER LLP
LAURENCE D. KING
555 Montgomery Street, Suite 1501
San Francisco, CA 94111
Tel: (415) 772-4700
Fax: (415) 772-4707

*Attorneys for Plaintiffs Pittsonberger,
Carter, and Bullock*

KAPLAN FOX & KILSHEIMER LLP
WILLIAM J. PINILIS
237 South Street
Morristown, NJ 07962
Tel: (973) 656-0222
Fax: (973) 401-1114

Attorneys for Plaintiffs Carter and Bullock

SCHNEIDER & WALLACE
TODD M. SCHNEIDER
180 Montgomery Street, Suite 2000
San Francisco, CA 94104
Tel: (415) 421-7100
Fax: (415) 421-7105

*Attorneys for Plaintiffs Pittsonberger,
Carter, and Bullock*

THE MASON LAW FIRM, L.L.P.
GARY E. MASON
DONNA F. SOLEN
1225 19th Street, N.W., Suite 500
Washington, D.C. 20036
Tel: (202) 429-2290
Fax: (202) 429-2294

*Attorneys for Plaintiffs Pittsonberger,
Carter, and Bullock*

KANTROWITZ, GOLDHAMMER &
GRAIFMAN
GARY S. GRAIFMAN
210 Summit Avenue
Montvale, NJ 07645
Tel: (201) 391-7000
Fax: (201) 307-1086

Attorneys for Plaintiff Pittsonberger

KARP, FROSH, LAPIDUS, WIGODSKY
& NORWIND, P.A.
JEFFREY A. WIGODSKY
1133 Connecticut Avenue, N.W., Suite 250
Washington, D.C. 20036
Tel: (202) 822-3777
Fax: (202) 822-9722

Attorneys for Plaintiff Pittsonberger

VANEK, VICKERS & MASINI P.C.
JOSEPH M. VANEK
111 S. Wacker Drive, Suite 4050
Chicago, IL 60606
Tel: (312) 224-1500
Fax: (312) 224-1510

Attorneys for Plaintiff Pittsonberger

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE PET FOODS PRODUCT)
LIABILITY LITIGATION) MDL Docket No.1850
)
)

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon all Parties' counsel of record, or upon the Party if no counsel of record appears, a copy of the within and foregoing "**PLAINTIFFS JAYME PITTSONBERGER, DAVID CARTER AND JIM BULLOCK'S JOINT MOTION FOR TRANSFER AND COORDINATION PURSUANT TO 28 U.S.C §1407**" by causing a copy of same to be deposited in the United States mail, postage prepaid, and properly addressed to the person and entities listed on the attached service list.

This is also to certify that I have this day mailed to the clerk of each United States District Court in which an action is pending that will be affected by the Motion for Transfer and Coordination Pursuant to 28 U.S.C. § 1407 a copy, for purposes of filing in said Court, of the within and foregoing "**PLAINTIFFS JAYME PITTSONBERGER, DAVID CARTER AND JIM BULLOCK'S JOINT MOTION FOR TRANSFER AND COORDINATION**

PURSUANT TO 28 U.S.C §1407” by causing a copy of same to be deposited in the United States mail, postage prepaid, and properly addressed to the courts listed on the attached service list.

Dated: April 5, 2007

Respectfully submitted,
KAPLAN FOX & KILSHEIMER LLP



ROBERT KAPLAN
LINDA NUSSBAUM
CHRISTINE M. FOX
805 Third Avenue, 22nd Floor.
New York, NY 10022
Tel: (212) 687-1980
Fax: (212) 687-7714

KAPLAN FOX & KILSHEIMER LLP
LAURENCE D. KING
555 Montgomery Street, Suite 1501
San Francisco, CA 94111
Tel: (415) 772-4700
Fax: (415) 772-4707

Attorneys for Plaintiffs Pittsonberger, Carter, and Bullock

KAPLAN FOX & KILSHEIMER LLP
WILLIAM J. PINILIS
237 South Street
Morristown, NJ 07962
Tel: (973) 656-0222
Fax: (973) 401-1114

Attorneys for Plaintiffs Carter and Bullock

SCHNEIDER & WALLACE
TODD M. SCHNEIDER
180 Montgomery Street, Suite 2000
San Francisco, CA 94104
Tel: (415) 421-7100
Fax: (415) 421-7105

*Attorneys for Plaintiffs Pittsonberger,
Carter, and Bullock*

THE MASON LAW FIRM, L.L.P.
GARY E. MASON
DONNA F. SOLEN
1225 19th Street, N.W., Suite 500
Washington, D.C. 20036
Tel: (202) 429-2290
Fax: (202) 429-2294

*Attorneys for Plaintiffs Pittsonberger,
Carter, and Bullock*

KANTROWITZ, GOLDHAMMER &
GRAIFMAN
GARY S. GRAIFMAN
210 Summit Avenue
Montvale, NJ 07645
Tel: (201) 391-7000
Fax: (201) 307-1086

Attorneys for Plaintiff Pittsonberger

KARP, FROSH, LAPIDUS, WIGODSKY
& NORWIND, P.A.
JEFFREY A. WIGODSKY
1133 Connecticut Avenue, N.W., Suite 250
Washington, D.C. 20036
Tel: (202) 822-3777
Fax: (202) 822-9722

Attorneys for Plaintiff Pittsonberger

VANEK, VICKERS & MASINI P.C.
JOSEPH M. VANEK
111 S. Wacker Drive, Suite 4050
Chicago, IL 60606
Tel: (312) 224-1500
Fax: (312) 224-1510

Attorneys for Plaintiff Pittsonberger

**MENU FOODS
SERVICE LIST**

DEFENDANTS

Menu Foods Midwest Corporation P.O. Box 1046 1400 East Logan Ave. Emporia, KS 66801	Menu Foods Income Fund 8 Falconer Drive Streetsville, ON Canada, L5N 1B1
Menu Foods, Inc. 9130 Griffith Mogan Lane Pennsauken, NJ 08110	Menu Foods Limited 8 Falconer Drive Streetsville, ON Canada, L5N 1B1
Menu Foods South Dakota, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Menu Foods Holdings, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Menu Foods Gen Par Limited c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Menu Foods Limited Partnership c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Menu Foods Operating Partnership c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Wal-Mart Stores, Inc. c/o The Corporation Company 425 W. Capitol Ave., Ste. 1700 Little Rock, AR 72201
Eukanuba One Proctor & Gamble Plaza C-2 Cincinnati, OH 45202	The Iams Company One Proctor & Gamble Plaza C-2 Cincinnati, OH 45202
Xuzhou Anying Biologic Technology Development Company Ltd. Wangdian Industrial Pei County Jiangsu P. R. China, Xuzhou, Jiangsu, China	Suzhou Textile Import and Export Company 201 Zhuhui Rd. Suzhou, Jiangsu, China 215006

OTHER PLAINTIFFS' COUNSEL IN THESE ACTIONS	
Counsel for Plaintiffs in the <i>Sims</i> Action: Jason M. Hatfield Lundy & Davis, LLP 300 North College Ave., Suite 309 Fayetteville, AR 72701 Tel.: 479/527-3921 Fax: 479/587-9196 Email: jhatfield@lundydavis.com	Counsel for Plaintiffs in <i>Scott, et al.</i> Action: Jeremy Young Hutchinson Patton, Roberts, McWilliams & Capshaw 111 Center Street, Suite 1315 Little Rock, AR 72201 Tel.: 501/372-3480 Fax: 501/372-3488 Email: jhutchinson @pattonroberts.com
Counsel for Plaintiffs in <i>Scott, et al.</i> Action: Richard Adams Patton, Roberts, McWilliams & Capshaw Century Bank Plaza, Suite 400 P.O. Box 6128 Texarkana, TX 75505-6128	Counsel For Plaintiffs In The <i>Schneider, And Workman, et al</i> Actions: Donna Siegel Moffa Trujillo, Rodriguez & Richards, LLP 8 Kings Highway West Haddonfield, NJ 08033 Tel.: 856/795-9002 Email: donna@trrlaw.com
Counsel for Plaintiffs in the <i>Workman, et al.</i> Action: Sherrie R. Savett Berger & Montague, P.C. 1622 Locust Street Philadelphia, PA 19103	Counsel for Plaintiffs in the <i>Workman, et al.</i> Action: Robert A. Rovner Rovner, Allen, Rovner, Zimmerman & Nash 175 Bustleton Pike Feasterville, PA 19053-6456
Counsel for Plaintiff in the <i>Troiano</i> Action: Paul J. Geller Lerach Coughlin Stoia Geller Rudman Robbins LLP 120 E. Palmetto Park Road, Suite 500 Boca Raton, FL 33432-4809 Tel.: 561/750-3000	Counsel for Plaintiffs in the <i>Workman, et al.</i> Action: Lawrence Kopelman Kopelman & Blankman 350 E. Las Olas Blvd., Suite 980 Ft. Lauderdale, FL 33301 Tel.: 954/462-6899

Counsel for Plaintiff in the <i>Holt</i> Action: A. James Andres Nicole Bass 905 Locust Street Knoxville, TN 37902 Tel.: 865/660-3993 Fax: 865/523-4623 Email: andrewsesq@iex.net	Counsel for Plaintiff in the <i>Holt</i> Action: Perry A. Craft Craft & Sheppard 214 Centerview Dr., Suite 233 Brentwood, TN 37027 Tel.: 615/309-1707 Fax: 615/309-1717 Email: perrycraft@craftsheppardlaw.com
Counsel for Plaintiff in the <i>Holt</i> Action: Nicole Bass 905 Locust Street Knoxville, TN 37902	Counsel for Plaintiff in the <i>Whaley, Heller, et al. and Kornelius, et al.</i> Actions: Michael David Myers Myers & Company 1809 7th Ave., Suite 700 Seattle, WA 98101 Tel.: 206/398-1188 Fax: 206/398-1189 Email: mmeyers@myers-company.com
Counsel for Plaintiff in the <i>Majerczyk</i> Action: Jay Edelson Blim & Edelson, L.J.C 53 West Jackson Blvd., Suite 1642 Chicago, IL 60604 Tel.: 312/913-9400 Email: jay@blimlaw.com	Counsel for Plaintiffs in the <i>Suggett, et al.</i> Action: Adam P. Karp Animal Law Offices 114 W. Magnolia St., Suite 425 Bellingham, WA 98225 Tel.: 360/392-3936 Email: adam@animal-lawyer.com
Counsel for Plaintiffs in the <i>Osborne</i> Action: Bruce E. Newman Newman, Creed & Associates 99 North Street, Route 6 P.O. Box 575 Bristol, CT 06011-0575 Tel.: 860/583-5200	Counsel for Plaintiff in the <i>Johnson, et al.</i> Action: Mr. Philip H. Gordon Gordon Law Offices 623 West Hays St. Boise, ID 83702 Tel.: 208/345-7100 Email: pgordon@gordonlawoffices.com

Counsel for Plaintiff in the <i>Sexton</i> Action: Mark J. Tamblyn Wexler Toriseva Wallace LLP 1610 Arden Way, Suite 290 Sacramento, CA 95815	Counsel for Plaintiff in the <i>Sexton</i> Action: Stuart C. Talley Kershaw, Cutter & Ratnoff, LLP 980 9th Street, 19th Floor Sacramento, CA 95814
Counsel for Plaintiffs in the <i>Thompson, and Trautman</i> Action: Gregg D. Trautmann Trautmann & Associates, LLC 262 East Main Street Rockaway, NJ 07866 (973) 316-8100 gdt@trautmann.com	Counsel for Plaintiffs in the <i>Tinker</i> Action: Alan E. Sash McLaughlin & Stern, LLP. 260 Madison Avenue New York, NY 10016 212-448-1100 212-448-0066 (fax)
Counsel for Plaintiffs in the <i>Wilson, Hidalgo, Nunez, Golding, Gagliardi, Turturro, and Richard, Et Al</i> Actions: Joseph J. Depalma Lite, Depalma, Greenberg & Rivas, LLC Two Gateway Center 12th Floor Newark, NJ 07102-5003 (973) 623-3000 jdepalma@ldgrlaw.com	Counsel for Plaintiffs in the <i>Bonier, et al</i> Action: Michael A. Ferrara, Jr. The Ferrara Law Firm 601 Longwood Avenue Cherry Hill, NJ 08002 (856) 779-9500 Mferrara@Ferraralawfirm.Com
Counsel for Plaintiffs in the <i>Carter, et al</i> Action: Todd M. Schneider Schneider & Wallace 180 Montgomery Street, Suite 2000 San Francisco, CA 94104 (415) 421-7100 (415) 421-7105 (fax)	Counsel for Plaintiffs in the <i>Pittsonberg, and Carter, et al</i> Action: Gary E. Mason Donna F. Solen The Mason Law Firm, L.L.P. 1225 19th Street, NW Suite 500 Washington, D.C. 20036 (202) 429-2290 (202) 429-2294 (fax)

Counsel for Plaintiffs in the <i>Brown</i> Action: Peter N. Wasylyk Law Offices Of Peter N Wasylyk 1307 Chalkstone Ave. 1307 Chalkstone Ave. Providence, Ri 02908 (401) 831-7730 (401) 861-6064 (fax)	Counsel for Plaintiffs in the <i>Brown</i> Action: Andre S. Kierstead Law Offices Of Andrew S. Kierstead 1001 Sw Fifth Ave., Suite 1100 Portland, Or 97204 (508) 224-6246 (508) 224-4356 (fax)
Counsel for Plaintiffs in the <i>Brown</i> Action: Marc Stanley Stanley, Mandel, & Iola, LLP 3100 Monticello Avenue, Suite 750 Dallas, Texas 75205 (214) 443-4300 (214) 443-0358 (fax)	Counsel for Plaintiffs in the <i>Heller, et al, and Johnson, et al, and Cornelius, et al</i> Actions: Steve W. Berman Hagens Berman Sobol Shapiro LLP 1301 5th Ave Ste 2900 Seattle, Wa 98101 206-623-7292 <u>Steve@Hbsslaw.Com</u>

COURTS	
Clerk of Court U.S. District Court, Western District of Washington 700 Stewart Street Seattle, WA 98101	Clerk of Court U.S. District Court, Western District of Arkansas 35 E. Mountain Street, Suite 510 Fayetteville, AR 72701-5354
Clerk of Court U.S. District Court, District of New Jersey 4th & Cooper Streets, Suite 1050 Camden, NJ 08101	Clerk of Court U.S. District Court Southern District of Florida 299 E. Broward Blvd., Suite 108 Fort Lauderdale, FL 33301
Clerk of Court U.S. District Court, District of New Jersey Martin Luther King Building & U.S. Courthouse 50 Walnut Street Room 4015 Newark, NJ 07101	Clerk of Court U.S. District Court, District of Connecticut 450 Main Hartford, CT 06103
Clerk of Court U.S. District Court, Central District of California 312 N. Spring St., Rm G-8 Los Angeles, CA 90012	Clerk of Court U.S. District Court, Northern District of Illinois 209 S. Dearborn Street Chicago, IL 60604
Clerk of the Court c/o Lynn Kamke, Divisional Manager U.S. District Court, Eastern District of Tennessee 800 Market Street, Suite 130 Knoxville, TN 37902	Clerk of Court U.S. District Court, District of Rhode Island Federal Building and Courthouse One Exchange Terrace Providence, RI 02903